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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/066,921	02/04/2002	John H. Schneider	769-295	4346
29540	7590	05/28/2004	EXAMINER	
PITNEY HARDIN LLP			SIPOS, JOHN	
7 TIMES SQUARE			ART UNIT	
NEW YORK, NY 10036-7311			PAPER NUMBER	
			3721	

DATE MAILED: 05/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

02

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/066,921	SCHNEIDER ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	John Sipos	3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 March 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### ***REJECTIONS OF CLAIMS BASED ON PRIOR ART***

**Claims 1-30** are rejected under 35 U.S.C. ' 103(a) as being unpatentable over the patent to patent to Malin (6,185,907-cited by applicant) in view of Ausnit (4,876,842) or Belmont (6,427,421). The patent to Malin shows a method and apparatus for forming packages which comprises a means for feeding a film (14/16) in a horizontal plane, means for placing a product on the film (column 3, line 1 et seq.), means for feeding a continuous zipper to the longitudinal edge of the film (38/40), means for folding the film along its longitudinal center (36), means for sealing the zipper to the film (84/86), means for sealing the longitudinal edges of the folded film (68/70) and means for sealing and cutting the packages crosswise (94/96). The substantially two equal halves of the packaging film, one on which the product is placed and the other which is folded over the product, can be seen in Figure 6 which shows the aligned longitudinal edges of the two halves after the folding has taken place. The Malin operation differs from the claimed one in the position of the zipper on the film.

The patent to Ausnit shows a package forming apparatus which comprises a means for providing a continuous film 14 in a horizontal plane, means for placing a product on the film (15), means for longitudinally folding the film (38), means for feeding a continuous zipper adjacent the longitudinal fold of the film (24), means for sealing the zipper to the film (42), means for sealing the longitudinal edges of the folded film (40) and means for sealing and cutting the packages crosswise (12).

The patent to Belmont shows a package forming apparatus, which comprises a means for providing a continuous film 14 in a vertical plane, means for longitudinally folding the film along its center (column 4, line 26), means for longitudinal feeding a

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continuous zipper to the film (14). The patent teaches alternative embodiments wherein the continuous zipper is fed either to the longitudinal edge of the film (Figures 3a and 3c) or adjacent the central fold of the film (Figure 3c).

In both the Ausnit and Belmont operations the feeding of the zipper inside the longitudinal fold provides protection from contamination to the zipper in the finished package. It would have been obvious to one of ordinary skill in the art to position the zipper of Malin adjacent the fold of the film as taught by either Ausnit or Belmont to provide protection to the zipper.

The positioning of the zipper of Malin adjacent the longitudinal fold as taught by the secondary references, places the zipper also opposite the longitudinal edges. These edges are finally sealed by the longitudinal sealers 64/66 of Malin.

The use of sliders and the related specifics of the bag, as recited in claims 3-10, 13-20 and 23-30 are well known in the zipper/slider/bag forming art and would have been obvious to use in the process of the Malin and Ausnit /Belmont combination for their inherent benefits.

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### ***RESPONSE TO APPLICANT'S ARGUMENTS***

Applicant's arguments that in the Malin reference the folding of the film takes place before the feeding of the zipper is not convincing since the folding in Malin takes place by element 32 which folds longitudinal edge 36 onto longitudinal edge 34. The feeding of the zipper from a location upstream of the zipper reference numeral 38 in Figure 1 is clearly prior to the completion of the folding operation by element 32 so that the second half of the film is placed over the zipper. Furthermore, even if applicant's

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arguments were accepted, it would have been obvious to one of ordinary skill in the art to feed the zipper prior to the folding operation since the importance of this timing has never been stated nor is it seen that it is critical to the overall process.

The arguments that the secondary references to Ausnit and Belmont do not show this sequence are not persuasive since these references were used to show the positioning of the zipper near the fold in the film so that the zipper would be protectively covered by the fold. These references were not applied against the claims to show the basic packaging process, e.g. the sequence of the various steps/mechanism or the location of the longitudinal seal, since these limitations are considered to be fully shown by the basic reference to Malin. The folding of the film of Malin along its centerline places the longitudinal edges opposite the centerfold and the placement of the zipper along the fold as taught by the secondary references positions the zipper opposite the longitudinal edges. It should further be noted that Ausnit places the zipper on the film before any film folding takes place. The subsequent folding places the folded film portions over the zipper and the underlying film.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to **Examiner John Sipos** at telephone number **(703) 308-1882**. The examiner can normally be reached from 6:30 AM to 4:00 PM Monday through Thursday.

The **FAX** number for Group 3700 of the Patent and Trademark Office is **(703) 872-9302**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Rinaldi Rada, can be reached at (703) 308-2187.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group Receptionist whose telephone number is (703) 308-1148.



**John Sipos**  
**Primary Examiner**  
**Art Unit 3721**

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